



Substitute House Bill No. 5057

Public Act No. 05-207

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES AND CHILD ABUSE OR NEGLECT PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17a-101k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) The Commissioner of Children and Families shall maintain a registry of the commissioner's findings of abuse or neglect of children [reports received] pursuant to [sections 17a-101a to 17a-101d, inclusive, and section 17a-103, and shall adopt regulations to implement the provisions of this section, including] section 17a-101g, as amended by this act, that conforms to the requirements of this section. The regulations adopted pursuant to subsection (i) of this section shall provide for the use of the registry on a twenty-four-hour daily basis to prevent or discover abuse of children and the establishment of a hearing process for any appeal by a person of the commissioner's determination that such person is responsible for the abuse or neglect of a child pursuant to subsection (b) of section 17a-101g, as amended by this act. The information contained in the [reports] registry and any other information relative to child abuse, wherever located, shall be confidential, subject to such statutes and regulations governing their use and access as shall conform to the requirements of federal law or

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regulations. Any violation of this section or the regulations adopted by the commissioner under this section shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year.

[(b) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Children and Families shall disclose to the Commissioner of Social Services, or his designee, registry information necessary for the evaluation of the temporary family assistance program operated by the Department of Social Services.]

(b) Upon the issuance of a recommended finding that an individual is responsible for abuse or neglect of a child pursuant to subsection (b) of section 17a-101g, as amended by this act, the commissioner shall provide notice of the finding, by first class mail, not later than five business days after the issuance of such finding, to the individual who is alleged to be responsible for the abuse or neglect. The notice shall:

(1) Contain a short and plain description of the finding that the individual is responsible for the abuse or neglect of a child;

(2) Inform the individual of the existence of the registry and of the commissioner's intention to place the individual's name on the registry unless such individual exercises his or her right to appeal the recommended finding as provided in this section;

(3) Inform the individual of the potential adverse consequences of being listed on the registry, including, but not limited to, the potential effect on the individual obtaining or retaining employment, licensure or engaging in activities involving direct contact with children and inform the individual of the individual's right to administrative procedures as provided in this section to appeal the finding; and

(4) Include a written form for the individual to sign and return, indicating if the individual will invoke the appeal procedures

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provided in this section.

(c) (1) Following a request for appeal, the commissioner or the commissioner's designee shall conduct an internal review of the recommended finding to be completed no later than thirty days after the request for appeal is received by the department. The commissioner or the commissioner's designee shall review all relevant information relating to the recommended finding, to determine whether the recommended finding is factually or legally deficient and ought to be reversed. Prior to the review, the commissioner shall provide the individual access to all relevant documents in the possession of the commissioner regarding the finding of responsibility for abuse or neglect of a child, as provided in subsection (m) of section 17a-28.

(2) The individual or the individual's representative may submit any documentation that is relevant to a determination of the issue and may, at the discretion of the commissioner or the commissioner's designee, participate in a telephone conference or face-to-face meeting to be conducted for the purpose of gathering additional information that may be relevant to determining whether the recommended finding is factually or legally deficient.

(3) If the commissioner or the commissioner's designee, as a result of the prehearing review, determines that the recommended finding of abuse or neglect is factually or legally deficient, the commissioner or the commissioner's designee shall so indicate, in writing, and shall reverse the recommended finding. The commissioner shall send notice to the individual by certified mail of the commissioner's decision to reverse or maintain the finding not later than five business days after the decision is made. If the finding is upheld, the notice shall be made in accordance with section 4-177 and shall notify the individual of the right to request a hearing. The individual may request a hearing not later than thirty days after receipt of the notice. The hearing shall be

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scheduled not later than thirty days after receipt by the commissioner of the request for a hearing, except for good cause shown by either party.

(d) (1) The hearing procedure shall be conducted in accordance with the procedures for contested cases pursuant to sections 4-177 to 4-181a, inclusive.

(2) At the hearing, the individual may be represented by legal counsel. The burden of proof shall be on the commissioner to prove that the finding is supported by a fair preponderance of the evidence submitted at the hearing.

(3) Not later than thirty days after the conclusion of the hearing, the hearing officer shall issue a written decision to either reverse or uphold the finding. The decision shall contain findings of fact and a conclusion of law on each issue raised at the hearing.

(e) Any individual aggrieved by the decision of the hearing officer may appeal the decision in accordance with section 4-183. Such individual may also seek a stay of the adverse decision of the hearing officer in accordance with subsection (f) of section 4-183.

(f) Following the issuance of a decision to uphold the finding and absent any stay of that decision issued by the commissioner or the court, the commissioner shall accurately reflect the information concerning the finding in the child abuse and neglect registry maintained pursuant to subsection (a) of this section and shall, in accordance with section 17a-101g, as amended by this act, forward to any agency or official the information required to be disclosed pursuant to any provision of the general statutes.

(g) Any individual against whom a finding of abuse or neglect was substantiated prior to May 1, 2000, and who has not previously appealed such finding, may appeal such finding as provided in this

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section.

(h) Records containing unsubstantiated findings shall remain sealed, except that such records shall be made available to department employees in the proper discharge of their duties and shall be expunged by the commissioner five years from the completion date of the investigation if no further report is made about the individual subject to the investigation, except that if the department receives more than one report on an individual and each report is unsubstantiated, all reports and information pertaining to the individual shall be expunged by the commissioner five years from the completion date of the most recent investigation.

(i) Not later than July 1, 2006, the Commissioner of Children and Families shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

Sec. 2. Section 17a-101g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective December 1, 2005*):

(a) Upon receiving a report of child abuse or neglect, as provided in sections 17a-101a to 17a-101c, inclusive, or section 17a-103, in which the alleged perpetrator is (1) a person responsible for such child's health, welfare or care, (2) a person given access to such child by such responsible person, or (3) a person entrusted with the care of a child, the Commissioner of Children and Families, or the commissioner's designee, shall cause the report to be classified and evaluated immediately. If the report contains sufficient information to warrant an investigation, the commissioner shall make the commissioner's best efforts to commence an investigation of a report concerning an imminent risk of physical harm to a child or other emergency within two hours of receipt of the report and shall commence an investigation of all other reports within seventy-two hours of receipt of the report. The department shall complete any such investigation within thirty

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calendar days of receipt of the report. If the report is a report of child abuse or neglect in which the alleged perpetrator is not a person specified in subdivision (1), (2) or (3) of this subsection, the Commissioner of Children and Families shall refer the report to the appropriate local law enforcement authority for the town in which the child resides or in which the alleged abuse or neglect occurred.

(b) The investigation shall include a home visit at which the child and any siblings are observed, if appropriate, a determination of the nature, extent and cause or causes of the reported abuse or neglect, a determination of the person or persons suspected to be responsible for such abuse or neglect, the name, age and condition of other children residing in the same household and an evaluation of the parents and the home. The report of such investigation shall be in writing. The investigation shall also include, but not be limited to, a review of criminal conviction information concerning the person or persons alleged to be responsible for such abuse or neglect and previous allegations of abuse or neglect relating to the child or other children residing in the household or relating to family violence. After an investigation into a report of abuse or neglect has been completed, the commissioner shall determine, based upon a standard of reasonable cause, whether a child has been abused or neglected, as defined in section 46b-120. If the commissioner determines that abuse or neglect has occurred, the commissioner shall also determine whether: (1) There is an identifiable person responsible for such abuse or neglect; and (2) such identifiable person poses a risk to the health, safety or well-being of children and should be recommended by the commissioner for placement on the child abuse and neglect registry established pursuant to section 17a-101k, as amended by this act. If the commissioner has made the determinations in subdivisions (1) and (2) of this subsection, the commissioner shall issue notice of a recommended finding to the person suspected to be responsible for such abuse or neglect in accordance with section 17a-101k, as amended

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by this act.

(c) Except as provided in subsection (d) of this section, no entry of the recommended finding shall be made on the child abuse or neglect registry and no information concerning the finding shall be disclosed by the commissioner pursuant to a check of the child abuse or neglect registry or request for information by a public or private entity for employment, licensure, or reimbursement for child care purposes pursuant to programs administered by the Department of Social Services or pursuant to any other general statute that requires a check of the child abuse or neglect registry until the exhaustion or waiver of all administrative appeals available to the person suspected to be responsible for the abuse or neglect, as provided in section 17a-101k, as amended by this act.

(d) If the child abuse or neglect resulted in or involves (1) the death of a child; (2) the risk of serious physical injury or emotional harm of a child; (3) the serious physical harm of a child; (4) the arrest of a person due to abuse or neglect of a child; (5) a petition filed by the commissioner pursuant to section 17a-112 or 46b-129; or (6) sexual abuse of a child, entry of the recommended finding may be made on the child abuse or neglect registry and information concerning the finding may be disclosed by the commissioner pursuant to a check of the child abuse or neglect registry or request for information by a public or private entity for employment, licensure, or reimbursement for child care purposes pursuant to programs administered by the Department of Social Services or pursuant to any other general statute that requires a check of the child abuse or neglect registry, prior to the exhaustion or waiver of all administrative appeals available to the person suspected to be responsible for the abuse or neglect as provided in section 17a-101k, as amended by this act.

[(c)] (e) If the Commissioner of Children and Families, or [his] the commissioner's designee, has probable cause to believe that the child

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or any other child in the household is in imminent risk of physical harm from [his] the child's surroundings and that immediate removal from such surroundings is necessary to ensure the child's safety, the commissioner, or [his] the commissioner's designee, shall authorize any employee of the department or any law enforcement officer to remove the child and any other child similarly situated from such surroundings without the consent of the child's parent or guardian. The commissioner shall record in writing the reasons for such removal and include such record with the report of the investigation conducted under subsection (b) of this section.

[(d)] (f) The removal of a child pursuant to subsection [(c)] (e) of this section shall not exceed ninety-six hours. During the period of such removal, the commissioner, or [his] the commissioner's designee, shall provide the child with all necessary care, including medical care, which may include an examination by a physician or mental health professional with or without the consent of the child's parents, guardian or other person responsible for the child's care, provided reasonable attempts have been made to obtain consent of the child's parents or guardian or other person responsible for the care of such child. During the course of a medical examination, a physician may perform diagnostic tests and procedures necessary for the detection of child abuse or neglect. If the child is not returned home within such ninety-six-hour period, with or without protective services, the department shall proceed in accordance with section 46b-129.

Sec. 3. Subsection (c) of section 17a-28 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(c) When information concerning an incident of abuse or neglect has been made public or when the commissioner reasonably believes publication of such information is likely, the commissioner or [his] the

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commissioner's designee may disclose, with respect to an investigation of such abuse or neglect: (1) Whether the department has received a report in accordance with sections 17a-101a to 17a-101c, inclusive, or section 17a-103, and (2) in general terms, any action taken by the department, provided (A) the names or other individually identifiable information of the minor victim or other family member [shall not be] is not disclosed, [notwithstanding such individually identifiable information is otherwise available] and (B) the name or other individually identifiable information of the person suspected to be responsible for the abuse or neglect is not disclosed unless the person has been arrested for a crime due to such abuse or neglect.

Sec. 4. Subsection (f) of section 17a-28 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(f) The commissioner or the commissioner's designee shall, upon request, promptly provide copies of records, without the consent of a person, to (1) a law enforcement agency, (2) the Chief State's Attorney or the Chief State's Attorney's designee or a state's attorney for the judicial district in which the child resides or in which the alleged abuse or neglect occurred or the state's attorney's designee, for purposes of investigating or prosecuting an allegation of child abuse or neglect, (3) the attorney appointed to represent a child in any court in litigation affecting the best interests of the child, (4) a guardian ad litem appointed to represent a child in any court in litigation affecting the best interests of the child, (5) the Department of Public Health, which licenses any person to care for children for the purposes of determining suitability of such person for licensure, subject to the provisions of sections 17a-101g and 17a-101k, as amended by this act, (6) any state agency which licenses such person to educate or care for children pursuant to section 10-145b or 17a-101j, subject to the provisions of sections 17a-101g and 17a-101k, as amended by this act,

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concerning nondisclosure of findings of responsibility for abuse and neglect, (7) the Governor, when requested in writing, in the course of the Governor's official functions or the Legislative Program Review and Investigations Committee, the committee of the General Assembly on judiciary and the committee of the General Assembly having cognizance of matters involving children when requested in the course of such committees' official functions in writing, and upon a majority vote of said committee, provided no names or other identifying information shall be disclosed unless it is essential to the legislative or gubernatorial purpose, (8) a local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut-Unified School District #2, established pursuant to section 17a-37, and (9) a party in a custody proceeding under section 17a-112, or section 46b-129, in the Superior Court where such records concern a child who is the subject of the proceeding or the parent of such child. A disclosure under this section shall be made of any part of a record, whether or not created by the department, provided no confidential record of the Superior Court shall be disclosed other than the petition and any affidavits filed therewith in the superior court for juvenile matters, except upon an order of a judge of the Superior Court for good cause shown. The commissioner shall also disclose the name of any individual who cooperates with an investigation of a report of child abuse or neglect to such law enforcement agency or state's attorney for purposes of investigating or prosecuting an allegation of child abuse or neglect. The commissioner or the commissioner's designee shall, upon request, subject to the provisions of sections 17a-101g and 17a-101k, as amended by this act, promptly provide copies of records, without the consent of the person, to (A) the Department of Public Health for the purpose of determining the suitability of a person to care for children in a facility licensed under sections 19a-77 to 19a-80, inclusive, as amended by this act, 19a-82 to 19a-87, inclusive, and 19a-87b, as amended by this act, and (B) the Department of Social Services for

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determining the suitability of a person for any payment from the department for providing child care.

Sec. 5. Section 17a-6a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The Commissioner of Children and Families shall (1) require each applicant for a position with the department to state in writing whether such person has ever been convicted of a crime or whether criminal charges are pending against such person at the time such person submits an application, and (2) require each applicant to submit to state and national criminal history records checks, in accordance with section 29-17a. The commissioner shall also check the state child abuse registry established pursuant to section 17a-101k, as amended by this act, for the name of such applicant. [for perpetrator information.]

Sec. 6. Subsection (b) of section 17a-114 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) (1) No child in the custody of the Commissioner of Children and Families shall be placed with any person, unless such person is licensed by the department. Any person licensed by the department may be a prospective adoptive parent. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish the licensing procedures and standards.

(2) The commissioner shall require each applicant for licensure pursuant to this section and any person sixteen years of age or older living in the household of such applicant to submit to state and national criminal history records checks prior to issuing a license to such applicant to accept placement of a child. Such criminal history records checks shall be conducted in accordance with section 29-17a.

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The commissioner shall also check the state child abuse registry established pursuant to section 17a-101k, as amended by this act, for the name of such applicant and for the name of any person sixteen years of age or older living in the household of such applicant. [for perpetrator information.]

Sec. 7. Subsection (a) of section 17b-749k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) The Commissioner of Social Services shall, within available appropriations, require any person, other than a relative, providing child care services to a child in the child's home who receives a child care subsidy from the Department of Social Services to submit to state and national criminal history records checks. The criminal history records checks required pursuant to this subsection shall be conducted in accordance with section 29-17a. The commissioner shall also request a check of the state child abuse registry established pursuant to section 17a-101k, as amended by this act. [for perpetrator information.]

Sec. 8. Subsection (a) of section 19a-77a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Any retail establishment in this state may establish a drop-in supplementary child-care operation on the premises of such retail establishment in accordance with the following requirements:

(1) The hours of operation may only be between six o'clock a.m. and nine o'clock p.m.

(2) No child receiving care shall be less than three years or more than ten years of age.

(3) A child may not receive more than two hours of care per day.

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(4) The operation may immediately notify appropriate law enforcement or state agencies if any child receiving care at such operation is not picked up by a parent or guardian after three hours.

(5) A parent or guardian shall be on the premises at the retail establishment at all times while the child is receiving care.

(6) The retail establishment shall provide a clean and safe area for the drop-in supplementary child-care operation.

(7) At all times the operation shall provide (A) at least one child-care staff person for every ten children, and (B) at least one child-care staff person who is twenty years of age or older who has experience in child care.

(8) The operation shall submit the names of all child-care staff to the Commissioner of Public Health, who shall request a check of such names from the state child abuse registry established pursuant to section 17a-101k, as amended by this act. [for perpetrator information.]

Sec. 9. Subsection (c) of section 19a-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(c) The Commissioner of Public Health, within available appropriations, shall require each prospective employee of a child day care center or group day care home in a position requiring the provision of care to a child to submit to state and national criminal history records checks. The criminal history records checks required pursuant to this subsection shall be conducted in accordance with section 29-17a. The commissioner shall also request a check of the state child abuse registry established pursuant to section 17a-101k, as amended by this act. [for perpetrator information.] Pursuant to the interagency agreement provided for in section 10-16s, the Department of Social Services may agree to transfer funds appropriated for

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criminal history records checks to the Department of Public Health. The commissioner shall notify each licensee of the provisions of this subsection.

Sec. 10. Subsection (b) of section 19a-87b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) The Commissioner of Public Health, within available appropriations, shall require each initial applicant or prospective employee of a family day care home in a position requiring the provision of care to a child to submit to state and national criminal history records checks. The criminal history records checks required pursuant to this subsection shall be conducted in accordance with section 29-17a. The commissioner shall also request a check of the state child abuse registry established pursuant to section 17a-101k, as amended by this act. [for perpetrator information.] The commissioner shall notify each licensee of the provisions of this subsection.

Approved July 6, 2005